



**COMMENTS AND SUGGESTIONS REGARDING
THE MASSACHUSETTS DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY'S
INVESTIGATION INTO COMPLIANCE WITH
GATE BOX MAINTENANCE AND IMPROVEMENT
REQUIREMENTS
OF G.L. C. 164, SECTION 116B**

**PREPARED FOR THE
COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL**

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Attachment A - Survey of Other States

I. Introduction

Effective April 1, 2003, the General Laws were amended with the addition of chapter 164, § 116B, which reads:

[w]henever the commonwealth or a city or town undertakes the repair of streets, roads or sidewalks the appropriate gas company shall provide for the maintenance and improvements of its gate boxes located in the streets, roads or sidewalks to be repaired, so that the gate boxes are more easily and immediately accessible. A gas company may apply for funds under [C]hapter 90 to assist in paying the costs of the maintenance and improvements.

On September 18, 2003, the Director of the Pipeline Engineering and Safety Division (Pipeline Division) of the Department of Telecommunications of Energy (DTE or Department) issued an Opinion Letter to all gas companies and municipal operators established under the provisions of Chapter 164 (operators) defining “gate boxes” as consistent with the federal Title 49 C.F.R. Part 192 language regarding valves on mains (distribution valves). It also reiterated the Department’s December 13, 1973 Opinion Letter regarding the accessibility of those valves and reminding the operators that paved over valve boxes do not meet the accessibility standard.

On October 12, 2004, the Department issued a directive to all operators to file reports with the Department on their compliance with Section 116B. Among other things, the gas companies reported to the Department: (1) the number of valve boxes in their service territories that were raised as required by Section 116B; (2) how they determined whether valve boxes were “easily and immediately accessible;” and (3) what methods are used to ascertain when street repair work will be done by a municipality or the state.

On October 3, 2005, the Pipeline Division issued an Opinion Letter to all operators expanding the definition of “gate box” to be consistent not only with the definition of “distribution valves” in 49 C.F.R. Part 192 , § 192.181 but also with “curb valves” or “curb shutoffs” as defined in 220 C.M.R. Section 101.06(14). (This regulation requires underground curb shut-off valves for all two inch and larger medium and high pressure services and any services that supply buildings where large numbers of people gather, such as theaters, churches, schools, and factories.) This letter again reiterated the December 13, 1973 Opinion Letter definition of “easily and immediately accessible”.

Upon review of the information provided to the Department by the operators in accordance with its previous directives, the Department noted that there were differences in how operators comply with the gate box maintenance and improvement requirements of 116B. Specifically, there are differences in how operators define “easily and immediately accessible” and in policies to collect necessary information from municipalities as to road paving schedules. Accordingly, pursuant to its general supervisory powers over the safety of operations of gas distribution systems established under Chapter 164, and pursuant to pipeline safety authority delegated to it by the United

States Department of Transportation, G.L. c. 164, § 105A, the Department opened an investigation to establish standards by which operators comply with Section 116B. This investigation seeks a showing on the part of operators that issues of gate box maintenance and improvement are properly addressed.

The operators of gas facilities in Massachusetts are: Bay State Gas Company; The Berkshire Gas Company; Blackstone Gas Company; Fitchburg Gas & Electric Light Company d/b/a Unitil; Holyoke Gas & Electric Department; KeySpan Energy Delivery New England; Middleborough Gas & Electric Department; New England Gas Company; NSTAR Gas Company; Wakefield Municipal Gas & Light Department; Westfield Gas & Electric Light Department.

II. Summary of the Problem

Natural gas distribution systems have valves for various purposes, such as shutting off portions of the system for maintenance or emergencies and facilitating additions to the system. Because most natural gas systems are buried, most of the system valves are below ground. The valves are generally protected by a valve box with a removable cover at grade that can be opened to gain access to the valve inside. Many system valves and their valve boxes are located in streets, roads and sidewalks. 116B calls these natural gas system valves and their protective boxes “gate boxes”.

Streets, roads and sidewalks are subject to maintenance, expansion and redesign. When streets, roads or sidewalks are worked on and repaved, there is a danger that the valve boxes might be paved over and the valve inside will not be readily accessible in the case of an emergency to shut off leaking gas or gas feeding a fire. 116B requires operators to make sure this does not happen.

To assure valve boxes are not paved over, operators must identify street, road and sidewalk work that involves their valve boxes before the work starts and raise or otherwise adjust the valve boxes so that they will remain readily accessible during and after the street, road or sidewalk work. The operators therefore must have communication with the agencies that plan and authorize work on streets, roads and sidewalks to be aware of work plans and schedules that affect their valve boxes. If the operators fail to adjust their valve boxes prior to work on streets, roads and sidewalks, the second line of defense would be to quickly identify paved over valve boxes and take remedial action.

116B addresses the operators’ responsibilities to assure valve boxes are not paved over. It does not address agencies’ responsibilities to notify operators of impending street, road and sidewalk work. It also does not require street, road and sidewalk work crews to utilize the Dig Safe one call system if excavation is not required (for example, street overlays or repaving after restoration work). When Dig Safe is notified of impending work, operators mark involved gas facilities so they will not be damaged during construction. Since operators are not notified by Dig Safe for paving, they may be unaware of impending pave-over of valve boxes.

III. Types of Distribution System Valves

There are several types of valves that can be part of a natural gas delivery system. Most would be useful in the case of an emergency. Further, most can be located below surface level in a protective box or vault. The following table shows the various types of valves, whether they would be useful in an emergency and whether they might be protected by a box or vault.

Types of Pipeline System Valves

Type of Valve	Useful in an Emergency?	Possibly Buried and Protected by a Box?
Isolation & Section Valves, sometimes referred to as Critical or Key valves	Extremely. It is their primary purpose, in addition to maintenance on the line. US DOT Part 192 requires annual inspection of these valves.	Yes. This category of valve is typically buried and requires a box or vault for immediate access.
Convenience Valves – Many are installed to facilitate original construction of the line segment they serve. They may be blow-down or bypass valves. This category of valve does not necessarily fall under the jurisdiction of the annual maintenance provisions in Part 192.	Yes, if accessible. They should not serve as the first option, but could be useful as a back-up to a critical isolation valve.	Yes, in most cases. However, because they are not part of the annual valve inspection program, their locations may have been lost or their valve boxes (if installed) paved over. Maps and facility documents should indicate the existence and placement of these valves.
Meter loop valves and service line valves typically located near the meter and in close proximity to the customer.	Extremely, and likely the most commonly used valve in handling emergencies with individual services.	Yes, but not usually. Normally, these valves are above ground near the regulator and meter.
Excess Flow Valves (EFV) - typically located just downstream of the service tee from the main. Regulations and practices vary on their use.	Possibly. They are intended to work automatically, but questions exist about their reliability and effectiveness.	Almost always buried and not accessible by a box.
Curb Valves. Typically located in the service line at the property line. The Commonwealth requires them for high volume services and those serving premises with large numbers of people, such as churches, schools, and hospitals.	Extremely. These valves would typically be able to stop a leak in high risk services.	Yes. This category of valve is typically buried and requires a box or vault for immediate access.

IV. Relevant Federal Regulation

As noted above, the US Department of Transportation (DOT) regulates gas pipeline safety under 49 C.F.R Part 192. Many states, including the Commonwealth of Massachusetts, are delegated responsibility for pipeline safety by the DOT. The DTE Pipeline Division is responsible for assuring compliance with both federal and Commonwealth laws and regulations regarding natural gas distribution system safety.

Part 192 has several regulations relevant to this investigation, including the requirement to locate, inspect and operate isolation and section valves (to assure they will work) within 15 months of the last inspection, but at least once each calendar year. Curb box valves are not necessarily required to be a part of this annual federal valve inspection program. However, the DTE directive defines the 116B gate boxes to include curb box valves.

V. Conclusions from Survey of Other States

Energy Advisors, LLC (EA) consultants conducted a telephone survey of the Office of Attorney General and Office of Pipeline Safety for the states of New York, New Hampshire, Connecticut, Pennsylvania, Maine and Rhode Island. Attachment A presents the results of the survey for each state. General conclusions that can be drawn from the survey follow.

The state offices of pipeline safety are generally concerned about the issue of paving over valve boxes. Their concerns vary from moderate to extreme. Many feel the pave-over issue is best handled through already-mandated one call systems. Others are frustrated by too frequent incidents and are penalizing operators heavily. Some states are considering new regulations. Maine is revising its entire set of rules and would like to include provisions requiring use of GIS and documentation recording the number of customers behind each valve. Excavation law (which does not specifically address pave-overs) in Rhode Island is continually being amended. Most recently, it was expanded beyond just the utility to incorporate others such as contractors and public entities. Several states mentioned the need to “further spell out” the PUC’s interpretation of Part 192 in order to better assure compliance. Pennsylvania and New Hampshire feel there are too many gray areas in the Federal Regulation when left to stand alone. Pennsylvania is pursuing assurances that the utilities have enough valves by establishing a threshold on the number, and regulating where they are placed.

No jurisdiction specifically holds paving contractors responsible when boxes are covered. Only Maine provides incentives for remedial actions taken on behalf of those who violate regulations. The Maine PUC Safety Administrator typically waives fines as an incentive to send the perpetrating personnel to remedial training. Attendance fees charged are funneled back into the program for publications, reminders, and training tools.

The Dig Safe one call service is utilized in all states surveyed except Connecticut. The PUC Safety Administrator in Maine took over enforcement of the program and is making

improvements which may be of interest to the Commonwealth of Massachusetts. The improvements address Dig Safe information systems and utility data bases. These improvements are expected to resolve program credibility issues with excavators. New software and revised data bases are scheduled for implementation in January, 2008.

None of the states surveyed have state laws that specifically address the issue of paving over valve boxes similar to 116B. All rely on the federal accessibility provisions in Part 192 regulation or their similarly drafted local rules.

VI. Review of Operator Filings

As part of this investigation, operators were required to file the following information with the Department:

- The relevant portion of the operator's O&M Plan that ensures compliance with Section 116B;
- An Excel spreadsheet of service territory streets paved in 2005, and the date that the gate boxes were made "easily and immediately accessible;"
- The relevant portion of the operator's O&M Plan that delineates policies concerning how operator employees collect data to ensure compliance with Section 116B;
- All relevant evidence that operators are in compliance with Section 116B;
- All relevant evidence that demonstrates that all valves on its mains and all curb valves on its service lines are immediately and readily accessible. Requirements applicable to valves on mains are described in Part 192, § 192.181. Requirements for service line valves are described in Part 192, § 192.365 and in 220 C.M.R. § 101.06(14).

EA consultants generally reviewed the filings to identify apparent strengths among the operators' approaches. EA reviewed filings from the following companies:

- Bay State Gas Company
- Berkshire Gas Company
- Blackstone Gas Company
- Unitil/Fitchburg Gas & Electric Light
- KeySpan Energy Resources
- Middleborough Gas & Electric
- New England Gas Company
- NSTAR Gas Company
- Westfield Gas & Electric Light
- Massachusetts Municipal Wholesale

Filings for Holyoke Gas & Electric and Wakefield Municipal Gas & Light were not found.

A common approach of all operators is to send a letter to their service area municipalities on an annual basis soliciting construction paving plans for the following year. Some report that they follow up periodically with the municipalities to check on additions, deletions and status of projects. Two utilities have written into their O&M Plan a requirement to follow up with any entities that do not respond.¹ Post-paving inspections are also written into the procedures at NSTAR.²

Cooperation and communication among all parties is mentioned in almost every case. A few refer to attendance at pre-construction conferences. Others take a more informal approach. Size of the operation often dictates this. Only Maine, Pennsylvania, and Connecticut mention some communities having formally organized or chartered utility councils formed expressly for the purpose of communication, information-sharing, planning, and cooperation.

Two utilities, Bay State and KeySpan, report an unusually large number of boxes that required remediation in 2005 -- 1,122 for Bay State and 9,200 for KeySpan. Relative size of the utilities' service territories and the volume of street and road projects may account for these large numbers.

Since the original order came out in 2003, KeySpan has created a position of Paving Inspector to assist in compliance and managing this problem. It is not unusual for a utility of sufficient size to have personnel dedicated to valve box maintenance for at least a portion of the year. The other respondents do not mention personnel involved.

Several filings mention a best practice of ensuring the top of the valve cover is color coded for easy recognition as a gas valve. Color may vary depending on the jurisdiction.

Berkshire Gas Company seems to take a longer view on planning and information gathering. They seek information about upcoming projects 18-25 months out. It also seems to have the most active and comprehensive approach to staying on top of pending paving projects.

The rest of the reporting was fairly unremarkable. Massachusetts Municipal Wholesale Electric Company states that their 5.6 mile length of pipeline and supporting associated systems have no gate or valve boxes that are under streets, roads or sidewalks. Therefore, they claim their operation is not covered by the requirements of 116B.

VII. EA Observations and Comments

EA consultants offer the following observations and comments with respect to existing safety practices and regulations:

1. A natural gas distribution system operator has a self-interest to comply with 116B. Operators do not want incidents to occur in which a valve that would have

¹ NSTAR O & M Procedure 4.12.1.c and New England Gas Specifications and Standards CM 26 #2.

² NSTAR O & M Procedure 4.12.3.

- been useful in an emergency was not readily accessible because its box was paved over. This would potentially increase its liability and certainly would cause a public relations problem.
2. The Commonwealth and local governments have a self-interest to see that valve boxes are not paved over. They prefer quick action in the event of an emergency to protect their citizens.
 3. 116B places the burden of compliance on the gas operators. However, to comply, the operators must rely on good communication from Commonwealth and local governments on paving plans. The quality of this type of communication varies by jurisdiction.
 4. 116B does not place a burden on local governments and paving contractors not to pave over valve boxes. Further, while contractors must utilize the Dig Safe one call program for full depth street reconstruction or other excavation projects, paving contractors are not required to utilize the one call system before initiating a paving or overlay project.
 5. The Pipeline Division does not regulate the Commonwealth's and local governments' paving plans and schedules nor their communication with operators.
 6. The Pipeline Division does not regulate paving and overlay projects whether implemented by governments or contractors.
 7. The US DOT requires annual operator inspections of distribution system "critical valves". This requirement should identify and correct any pave-over problems with valves in this program within fifteen months of the pave over.
 8. Convenience valves are not included in the definition of gate boxes.
 9. There are no specific penalties for failing to comply with 116B.
 10. If there is extra work imposed by 116B, the operator's recovery of the relevant incremental costs may be limited. 116B allows operators to apply for federal highway funds up to five million dollars per year. Any shortfalls may have to be covered by rate increases.

VIII. Potential Compliance Improvements

Based on our review of the operators' filings, other states' safety regulation and our own analysis, we believe the DTE should consider the following measures to ensure more consistent compliance with Section 116B and better safety practices:

1. Expand the DTE definition of "gate boxes" to include any distribution main or

service line valve in a box that may be useful in an emergency, including all curb boxes and any locatable convenience valves.³

2. Expand operator annual valve inspection requirements to include all valves defined as gate boxes.
3. Establish Commonwealth-wide standards for the identification of gate boxes. For example, require that they all be painted yellow and stenciled with the term, “Gas Valve”.
4. Expand the standard of “easily and immediately accessible” for gate boxes to prohibit any obstruction, such as dumpsters or other obstructions, from blocking quick access to valve boxes.
5. Define the Commonwealth’s and local governments’ responsibilities in communicating paving plans with gas operators. Require adequate notice and accurate plans. While this may require legislation, and may raise sensitive authority issues, it deserves serious consideration in light of the important safety issues at stake.
6. Prohibit paving contractors from paving over gate boxes under threat of penalties from the DTE or legal action by the operators. Perhaps link to the prohibition against third party damage to gas systems.
7. Require paving contractors to utilize the one call system to allow operators to mark out involved gate boxes before paving if they have not already been raised prior to the paving project initiation. The paving contractor can place a paving ring around the valve box and the operator can raise the box after the paving. This should be required whether the paver plans to cut grade or not.
8. Expand DTE’s authority to include the imposition of meaningful penalties for operator violations of 116B and paving crew violations of new one call requirements for overlays.
9. Encourage a “carrot” approach where the DTE sponsors 116B training and in which the first penalty is waived if the perpetrator attends remedial training.
10. Require filing by operators of annual reports identifying paved-over gate-boxes. Data collected from these reports over a period of several years could form the basis for a new component to the operators’ service quality plans.

³ Vaults are also subject to being obstructed, but are not directly addressed by 116B. Vaults are larger buried enclosures that may contain other distribution equipment in addition to valves. They are usually accessed through a “manhole” cover subject to paving over. Regardless, access to vaults is as problematic as valve boxes but is not incorporated in the regulation. Part 192.185 addresses accessibility of vaults.

Attachment A

Survey of Other States

MAINE

CONTACTS: Jeff Pidot, AG Natural Resources Division Chief (207) 626-8800
Gary Farmer, PUC Gas Safety Administrator (207) 287-1385

QUESTIONS	RESPONSES
Are you concerned with valves being paved over? Is this a problem?	Not specifically. They believe that a robust one call system is important to preventing damage of most types to gas infrastructure.
What law or regulation do you apply?	DOT 192. PUC has been drafting its own complementary regulations to 192 for several years. They do not duplicate the language, but add more stringent language to it when applicable. The legislature must review all “major substantive rules” before they can be enacted.
Do you enforce penalties? What are they?	Rarely have to. Use 192.605 to enforce inclusion of valve sections in the operators O & M Plan. Insure they identify valves and have a maintenance procedure therein. First offense is up to \$500. Second within 12 months is up to \$5000 and they want this raised but they have not demonstrated the need as current level is seldom imposed.
Do you obligate or hold contractors responsible?	No, had not considered this yet. Utilities are held responsible for problems resulting from paving projects. Contractors are not obligated to call in overlay projects unless grade has to be cut. However they recognize that areas with city sub-contractors are where problems with valves occur.
What is the level of cooperation between state and local government, contractors, and utilities?	Successful damage prevention is attributed to their small size, and to the long term personal relationships in their communities. Also to quick follow up cycles when probable violations are found. They appear to really work closely to informally (by rule) resolve issues quickly once discovered.
Besides penalties, do you provide incentives, or “carrots”?	Yes. First offense fines are usually waived when perpetrating personnel attend remedial training. This is a 3 hour course scheduled once a month. The courses are tailored to the students and to the infractions. The gas & electric utility sends someone to strongly convey the serious life and death consequences that damage can cause. The legislature allows attendance fees charged to be rolled back into the program for publications, reminders, and training tools.
How do you feel about your One Call System?	The PUC has for years had major concerns with the Dig Safe one call system. They are working to overcome a major credibility problem with excavators due to inaccurate data bases of utilities and that of Dig Safe itself. They are revising new software to better match base maps with distribution company records. A public relations campaign will follow. Anticipate implementation in January 2008.
Do they conduct Utility Councils or <u>Regular</u> Pre-Construction meetings?	Only Portland has a Utility Council per se, held weekly. The cities typically take the lead to call parties together to discuss projects.

PENNSYLVANIA

CONTACTS: Andrew Paris – Legislative Affairs, Legislative Liaison (717) 783-3085
Paul Metro – Gas Safety Supervisor – Public Utility Commission (717) 787-1063

Are you concerned with valves being paved over? Is this a problem?	Yes – so much so they are considering additional regulation but are not sure just what yet. Their particular concern is that utilities are reducing the number of critical valves of record requiring annual inspection. AG is not involved in this.
What law or regulation do you apply?	PA Code Chapter 59 Gas Service ⁴ which supplements DOT Part 192. They are determined to insure that operators have “enough” valves by establishing a threshold on the number, and regulating where they are placed. Currently researching.
Do you enforce penalties? What are they?	Aggressively. They are enforcing this hard by citing the utility and imposing penalties. One Call violations allow fines between \$2,500 and \$25,000. The first Gas Safety Regulation violation is up to \$10,000.
Do you obligate or hold contractors responsible?	They do not. They hold the utility responsible and are seeing an incident of this nature once every 12-18 months. However, they just had two incidents in the last two months. One was a bricked over valve, the other operator location error.
What is the level of cooperation between state and local government, contractors, and utilities?	This varies widely depending on the municipality and the area of the state.
Besides penalties, do you provide incentives, or “carrots”?	Appear to be pretty “fed up”. They do not think in terms of incentives but heavily utilize penalties under law.
How do you feel about your One Call System?	They feel very good about their Dig Safe program. State that they have the lowest hit ratio of their area at 1.78. Stress that the program must have provisions to ensure compliance with the state’s Underground Utility Line Protection Act. ⁵
Do they conduct Utility Councils or <u>Regular</u> Pre-Construction meetings?	Yes, but varies around the state. They have a Gas Safety Regulation that requires a paving contractor to convene a project conference on any major projects, including paving.

⁴ Reference www.pacode.com/secure/data/052/chapter59/chap59toc.html

⁵ Reference www.dli.state.pa.us/landi/CWP/view.asp?a=185&Q=58131

CONNECTICUT

CONTACTS:

John Wright – Assistant AG, Finance and Public Utilities Department (860) 827-2684

Phil Sher – Department of Public Utility Control (DPUC), Director Gas Pipeline Safety (860) 827-2604

QUESTIONS	RESPONSES
Are you concerned with valves being paved over? Is this a problem?	They do not feel they have much of a problem with this. “We are spending ratepayers’ money and feel they get a bigger bang for their buck replacing small diameter cast iron”. Are also much more concerned with new rules on utility integrity management initiatives. ⁶
What law or regulation do you apply?	Enforcement is through DOT Part 192 audits.
Do you enforce penalties? What are they?	They have not had the need to enforce penalties regarding paving over valve boxes.
Do you obligate or hold contractors responsible?	No. But view is that any paving overlay requires some excavation obligating the contractor to call for line spots, thus providing notification to the utility.
What is the level of cooperation between state and local government, contractors, and utilities?	DPUC jurisdiction covers 169 towns whose relationships vary from “horrible to excellent”. Their state is very big on strong, independent local government.
Besides penalties, do you provide incentives, or “carrots”?	No.
How do you feel about your One Call System?	DPUC feels that their One Call is the “best in the country”. They are the one New England state that does not use Dig Safe, Inc.
Do they conduct Utility Councils or <u>Regular</u> Pre-Construction meetings?	Yes, many locations conduct regular utility council meetings, others only when planning a large project.

⁶ The Department of Transportation (<http://primis.phmsa.dot.gov/gasimp/>) through the Pipeline and Hazardous Material Safety Administration inspects and enforces 49 CFR Part 192, Subpart O, effective April 14, 2004, requiring transmission operators to conduct and improve their integrity management programs. In addition to improving on these programs, the objective is to improve the government’s role in reviewing the adequacy of the programs, and improve public assurance in pipeline safety.

NEW YORK

CONTACTS: Charley Donaldson, Assistant AG, Environmental Protection Bureau (212) 416-8334
Gavin Nocoletta, PSC, Chief, Gas and Water Safety (518) 486-2496

QUESTIONS	RESPONSES
Are you concerned with valves being paved over? Is this a problem?	While not a specific concern, AG views this similar to a Stray Voltage problem they are experiencing caused by transformer tampering and also road salt. They issued an order for each utility to create a program and conduct inspections. Voltage inspections were reduced from ten years to annual in some cases. The PSC does not feel that paving projects are a “particular problem” that would not be remedied in the annual valve inspection. They are not promoting regulatory change in this area.
What law or regulation do you apply?	Use NY Codes and Regs, Title 16, Part 255. Otherwise mirror and enforce Part 192.
Do you enforce penalties? What are they?	Yes, but could not state what they were.
Do you obligate or hold contractors responsible?	No. It is the utility’s responsibility and the utility is expected to take immediate remedial action if a valve is found inaccessible.
What is the level of cooperation between state and local government, contractors, and utilities?	Varies depending on the region.
Besides penalties, do you provide incentives, or “carrots”?	No.
How do you feel about your One Call System?	Good. They term it “robust”. Believe the system helps utilities become aware of projects that affect them.
Do they conduct Utility Councils or <u>Regular</u> Pre-Construction meetings?	Projects have pre-construction meetings on a project-by-project basis.

RHODE ISLAND

CONTACTS: Paul Roberti – Assistant AG, Unit Chief, Civil Division – Utilities (401) 274-4400 ext. 2231
Tom Kogut – Division of Public Utilities & Carriers (DPUC), Utilities Head (401) 780-2105
Don Ledversis – Gas Public Safety Supervisor – DPUC (401) 780-2123

QUESTIONS	RESPONSES
Are you concerned with valves being paved over? Is this a problem?	Yes, an ongoing problem. But they do not consider it a “particularly major concern”. Dumpsters sitting on top of valve covers has been a problem they’ve noticed. AG too tied up with electric deregulation issues.
What law or regulation do you apply?	Principally Part 192 through annual audits. RI Title 39 Public Utilities and Carriers. Chapter 39-1.2 pertains to excavation near underground utilities. ⁷
Do you enforce penalties? What are they?	Yes, but not regularly. The DPUC inspector feels that is due to his diligence in aggressively following up to insure that utility recovery efforts match the situation. He keeps careful records himself and monitors the utilities to insure they have responded to his satisfaction. Expects most situations to be fixed within days. One Call penalties are set forth in Title 39 §39-1.2-13 \$200 1 st offense, \$500 to \$1000 for subsequent offenses.
Do you obligate or hold contractors responsible?	No. But Dig Safe Law is currently before the Gen Assembly which is “always tweaking it”. §39-1.2-1 Was aware that they recently expanded the law beyond just the utility to incorporate others such as contractors and public entities.
What is the level of cooperation between state and local government, contractors, and utilities?	The DPUC considers themselves in a very small community, that they all know each other, and try to look out for each others situations. The supervisor also notes that they only have one gas utility to regulate.
Besides penalties, do you provide incentives, or “carrots”?	No.
How do you feel about your One Call System?	OK, however the AG’s office indicates that the General Assembly seems to always be working on this.
Do they conduct Utility Councils or <u>Regular</u> Pre-Construction meetings?	Very informally.

⁷ <http://www.ripuc.org/rulesregs/divrules.html> and <http://www.rilin.state.ri.us/Statutes/Title39/>

NEW HAMPSHIRE

CONTACTS: Richard Head, Senior Assistant AG, Bureau Chief, Consumer Protecting Bureau (603) 271-3641
 Chester Kokoszka, PUC, Gas Inspector (603) 271-6027
 Randy Knepper, PUC Division Safety Director (603) 271-6026

QUESTIONS	RESPONSES
Are you concerned with valves being paved over? Is this a problem?	Good issue, a real problem. The state fire marshal's office indicated concern. PUC is also concerned with this, but does not consider it biggest issue.
What law or regulation do you apply?	Part 192, but feel it is inadequate. In addition, utilities, banking and insurance are excluded by law from their consumer protection act. State regulation works out the 192 gray areas, writes it in to the state rules, conveys to operators.
Do you enforce penalties? What are they?	Heavily enforces penalties. NH Part Puc 511 ⁸ authorizes imposing civil penalties.
Do you obligate or hold contractors responsible?	Predominately holds utility wholly responsible. Exception is associated with excavation hits. PUC fines the contractor 60% of the time when damage occurs. Not for pave-overs; however, that is exclusively the utilities' responsibility whether they are aware of the project or not.
What is the level of cooperation between state and local government, contractors, and utilities?	Good. But not enough to avoid problems from time to time.
Besides penalties, do you provide incentives, or "carrots"?	Not at all. Believes in the letter of the law and the obligation of the parties to fulfill their responsibility there under.
How do you feel about your One Call System?	Is okay with Dig Safe. Believes the utility is exclusively responsible for providing accurate data/maps to the one call system. The system only serves as a dispatch center.
Do they conduct Utility Councils or <u>Regular</u> Pre-Construction meetings?	No familiarity with councils. Some pre-construction meetings are utilized, which they encourage. Because they are a small state, much occurs through relationships informally.

⁸ <http://www.puc.nh.gov/Regulatory/Rules/puc500.pdf>